

CLOSING STATEMENT ON THE CPO

by Mr Ted Cremin on behalf of The Twickenham Riverside Trust

1. Ms Annabel Graham Paul has been instructed by the Trust to submit its Closing Statement with respect to the Authority's use of Section 19(1)(a) and (aa) of the Acquisition of Land Act 1981.
2. This Closing Statement addresses most specifically why the Authority's Compulsory Purchase Order lodged in respect of the Trust's demise within the Diamond Jubilee Gardens on Twickenham Riverside should not be approved.
3. However, whilst the Trust is making its Closing Statement in two parts, so to speak, as there are two - indeed three - separate matters that are the subject of this Public Inquiry, we would nevertheless wish for our Closing Statement regarding section 19, addressing as it does matters related to the quantum and quality of the public open space provided by the Authority's Scheme, to be viewed alongside the Trust's wider representations regarding the Authority's use of CPO powers.
4. As we did in our Opening Statement, we feel it is important to take a step back and take a broader look at both Twickenham's existing riverside open space and that which the Authority is seeking to replace it with under its Scheme.
5. It is undisputed that the Diamond Jubilee Gardens occupy a prime riverside location for public open space. They sit in an elevated position, above and separate from the vehicular movement passing through the adjacent Embankment road, Wharf Lane and the King Street service road, and substantially outside areas at risk of flooding. And whilst they are but a stone's throw from the hustle and bustle of the town centre, they are remarkably distinct in character, ambience, tranquility and aspect. The Gardens very much belong to Twickenham's riverside rather than Twickenham's nearby high street.

6. The Gardens comprise a coherent and contiguous space, broadly rectangular in area. They were designed to facilitate a variety of recreational activities, where the public can play and/or relax side by side, without interfering with each other's enjoyment. They contain hedgerows, planting and trees which help delineate the Gardens into a number of outdoor 'rooms' of different sizes and with varying textures, each having flexible functionality, whatever the time of day or year, for various user groups i.e. the public to enjoy.
7. As has been heard at the Inquiry a large number of mature trees, both within and outside the Gardens, play a crucial role in providing visual stimulation and amenity to the public. To the rear, the row of mature hornbeams provide both a verdant backdrop and vital 'green' screening from the rear ground-floor commercial buildings and associated activity to the rear of King Street. The Trust has reported to the Inquiry that over 80% of the CAVAT value (see INQ-35 LBR-39 "CAVAT Report") of all the trees to be found on the Authority's development site lies within Diamond Jubilee Gardens.
8. To the west, sitting below big skies, are the trees (stretching for several hundred feet) within the adjacent Thames Eyot canopy, to be found beyond Wharf Lane. These trees form as much part of the public's experience of and enjoyment of the Gardens as those to be found within its boundaries. To the east lie the various sycamore trees within the Authority-owned derelict land beyond the hoarding on the Gardens' eastern boundary. To the south are the trees that line the Embankment Promenade, and those that are situated on Eel Pie Island and beyond. So whichever direction one looks from the Gardens, there are trees; open space providing 360 degrees of wonderfully green aspect. The extent of the existing trees present on the development site is such that the Authority is unable to replace them on site as part of its Scheme, and is conditioned (ILO8 of the Officer's Report) in the Planning Consent to provide tree and hedgerow "community planting" offsite.

9. Remarkably, given their proximity to the Town Centre, the existing Gardens benefit hugely from the absence of any buildings to the west or south-west which would otherwise impede the year-round afternoon and evening sunshine; open space affording the benefit of 365 days a year of potential sunshine to its users.
10. And the timelapse footage captured by the Trust over four years in and around the same weekend in February - a cold month in which every ray of sunshine is much appreciated - demonstrates most clearly who those users are, users benefitting from the 'affordable' open space available to all that exists in the Diamond Jubilee Gardens and has done so for over ten years.
11. In capturing 4 years of footage - shot in 2019, 2021, 2022 and 2023 - and having been able to enter footage from 2019 and 2022 in its entirety, unedited, into evidence - the Trust has demonstrated its commitment to clearly evidence who the public is who currently makes use of the Gardens and the opportunities for recreation that the Gardens offer. This is not about anecdote. It is about evidence. In contrast, the Authority offers no evidence, no data, to support its assertions that the Gardens are an 'underused' space. In contrast, its claims regarding the extent of anti-social behaviour and criminal activity are much exaggerated. These, too, are for the very most part unevidenced by the Authority.
12. The Trust took timelapse footage for the days (c.9am-6pm) on and either side of the last weekend in February in 2019, 2021, 2022 and 2023. The footage from 2019 (Sunday/Monday) and 2022 (Friday, Saturday, Sunday, Monday) was entered into Evidence on Day 9 of the Inquiry.
13. Capturing footage of usage taking place during February (as opposed to May or August, for example) was a deliberate choice on the part of the Trust. If the Gardens can be demonstrated to be used to the extent that they are and by a variety of user groups in February, then it can only be assumed that this usage would not only continue but probably increase April through September, for

example.

14. The Trust undertook this four-year exercise as it had become apparent that the AA was considerably underestimating not only the degree to which the public was using the existing Gardens but also the different user groups that constituted the public currently benefiting from their use of the Gardens.
15. The footage shows, in the background, extensive use of the Garden's playground. That this is a well used space is not disputed by the Authority. The degree, however, to which it is used year round - in large due to its sunny, open aspect - is clearly evidenced by the footage which shows a constant flow of users in and out of the one visible (of the two) playground gates.
16. The footage also shows the petanque pitches in use by one of the regular user groups. As with the playground, the pitches are able to benefit from year-round sunshine, extending their amenity value and therefore usage. Tai chi is also shown being practised in this area.
17. Also seen on the Gardens is one of several nursery groups who regularly use the Gardens throughout the year on an almost daily weekday basis. As well as the enclosed playground, these groups also make extensive use of the all-weather surface lawns for both informal play as well as more structured activity, with specialist 'coaches' bringing equipment on to the Gardens (see page 7 of WI.2.04). The hedges that surround the existing lawns delineate an area that, whilst not enclosed, is nevertheless contained, allowing for a 'supervised' freedom of movement by the young children. The children are also shown at one point sitting on the all-weather-surface lawns. Other users are also shown sitting on the lawns in late February. This would arguably be neither practical nor comfortable on real grass. The sandpit is also seen in use. Again, the Gardens' sunny aspect extends the usage of this play area, the sand being able to 'dry out' to a certain extent in the winter sunshine.

18. The footage also very clearly shows extensive playing of ball games, mostly football, but also rugby (throwing and catching). Mr Cremin, on page 8 of his Statement of Evidence INQ-23-2 “Ted Cremin - Consultation and Engagement”, reproduced an email received by the Trust during the Inquiry from a Y12 student at a nearby school, in which the student referred to the “extensive use it [the Gardens] receives from boys attending the surrounding schools.” Being close to school, it is “a perfect distance to get to and from school in between break times” and “a place where we can escape the stress of school and embrace the joys of sports.” He continues: “We spend countless hours on these grounds, honing our skills [playing ball games] and simply having fun.”
19. Tennis, badminton and cricket - whilst not shown in the footage - are also played on the Gardens. The playing of ball games takes place for the most part on the all-weather-surface lawns, but also extends on to the hardstanding, as shown repeatedly in the timelapse footage. See also the photograph of a large group of primary-school aged children playing football on the hardstanding on page 39 of Mrs Holman's Proof of Evidence on Open Space, document W1.1.01.
20. The timelapse footage shows extensive additional usage of the hardstanding area (i.e. that part of the Gardens nearest the hoarding along its ‘eastern’ edge) - bike riding, scootering, roller blading, as well as playing with remote control vehicles. The various activities criss-crosses the hardstanding, with the children's movements also making use of what the Authority has labelled ‘circulation space/ other hard landscaping’ in its Map S of the existing open space. The footage shows that these ‘circulation’ areas are very much part of the children's free play space.
21. The footage shows older children (teenagers) appearing after school and towards the evening, occupying the riverfront benches or sitting on the low wall to the rear of the Gardens.
22. It is to be emphasised that this footage was taken in February. As the days become longer, the user groups extend beyond the year-round use by young

children and teenagers, into adults and inter-generational family groups, often consuming food either bought from nearby outlets or as picnic food from home.

23. All of the above is with respect to the existing open space on the development site within Diamond Jubilee Gardens. There is also open space in other areas on the development site, most notably on Twickenham's Embankment Promenade. During the course of the Inquiry it has become increasingly clear that, whilst there is a shared aspiration to remove and improve the Authority's derelict and disused land and to remove as much riverside car parking and vehicular movement as is possible, the Authority has a very different ambition for the future of Twickenham Riverside's open space to those opposing the Scheme. The Authority's vision imagines the upper riverside open space as a "centre of containment" as Mr Bannister described it in his evidence; a 'bookended' space which on three sides will be flanked mainly by buildings, whilst retaining views towards the Thames to the south-east. And it proposes open space where, the river apart, buildings are the preferred backdrop, rather than nature.
24. The extent to which this raised "centre of containment" containing the proposed children's playground, petanque pitches and lawned area could be still further 'contained' by buildings remains to be seen. The Trust has detailed to the Inquiry how the relatively new owner of 3-33 King St has been and is currently undertaking a significant series of improvements (repointing, new windows to the front elevation, installation of 'heritage' shop frontages, complete retiling of the roof, 'public realm' improvements to the pavement to the front of the retail parade, installation of a public art mural to an entire side elevation) to its asset. These improvements cannot but be seen against the background of the 2016 sales brochure when the King St property changed hands promoting the potential for significant residential development to the rear, which would result in yet more buildings overlooking Mr Bannister's "centre of containment."
25. In the Trust's opinion, the Authority's Scheme brings to Twickenham's unique riverside an aesthetic choice akin to that which prevails in places such as Battersea and Vauxhall, where external areas designed for outdoor amenity sit

between tall buildings on all boundaries save for their riverside frontage. It is a design decision where the built environment is prioritised over true open space, and it is a choice which, in the Trust's opinion, is entirely out of keeping with the modest, low-rise charm of the rest of Twickenham's riverside buildings and outdoor space.

26. It is a Scheme for which the Authority has chosen to use compulsory powers to acquire the very best real estate in the overall scheme land, namely the elevated, sun-filled, protected from flooding and climate change riverside Diamond Jubilee Gardens, so that instead it can build in that very same location privately owned flats above a privately owned pub and privately owned offices. Yes – outdoor areas are being offered as alternative public open space, but as the Trust has demonstrated at the Inquiry during the last three weeks, the reprovisioned land is of a quality and/or in a location which is greatly inferior to that enjoyed by the current open space.
27. Indeed large parts of the land that is being offered to replace the Gardens is so bereft of the basic characteristics of open space that, in the Trust's opinion, it fails to meet the required threshold to be described as such. And much of the remainder of the replacement open space is so compromised by its location and/or limited functionality and/or conflicts with vehicles, cyclists and pub users that it fails to meet the statutory requirement of being as equally advantageous or - to use the words of the Charity Commission in its advice to charities when disposing of their land - to be of equivalent amenity value to the public as the open space being acquired.
28. And the Authority then doubles down on this injustice by constructing a private 5-storey building, imposing an abrupt overbearing building immediately above the open space which creates huge amounts of overshadowing across this new open space, to include down on the Events Space and on the reduced-width Embankment Promenade every day throughout the year. Many hundreds of hours of sunshine every year would be lost each year as a result and there would be premature sunsets for all but the occupiers of the new private flats.

29. In its Closing Statement, the Trust wishes to reiterate certain key factors that it has brought forward over the course of this Inquiry.
30. It is to be much regretted that the 2019 RIBA Design Competition and the Scheme that resulted from the process represents a missed opportunity for all parties concerned, above all - the Trust would contend, with reference to its Objects - the public.
31. The Trust's purpose, underpinned by its formal Objects, has been throughout – and continues to be – to preserve, protect and enhance the public open space on Twickenham's Riverside, both in the Diamond Jubilee Gardens and more broadly across Twickenham's riverside environs.
32. The Trust very much shares the same ambition with the residents of not only Twickenham but also the wider borough, with the Authority and - as we hope we have conveyed over the course of the Inquiry - also with Supporters of the Scheme. And that is to find an appropriate design response that will complete the realisation of the full potential of this unique and characterful riverside site. Completing the picture if you like. Joining up the existing dots.
33. This approach - extending and enhancing what has already been achieved on Twickenham's riverside - is characterised by the Authority as "piecemeal" in contrast to the "whole site" solution it is promoting via its Scheme. However, its "whole site" approach is also to ignore the wider context in which the development site sits. Twickenham's riverside is recognised in the Authority's current draft Conservation Area Consultation as scoring "particularly highly for attractiveness, tranquillity, and green spaces" and as having "high sensitivity to change".
34. It is also to be deeply regretted that, in the Trust's discussions and negotiations with the Authority, the Authority has appeared to regard the proposed Scheme as a take-it-or-leave-it issue. This should never have been the binary choice that it

seems to have become. The Trust has detailed the genuine optimism with which it embarked on the 2019 process, the degree to which it welcomed the opportunity for the public to benefit from the realisation of the potential present in the Hopkins' RIBA competition-winning concept proposal. Unfortunately the Scheme - negatively impacted by inadequately briefed Environment Agency requirements and further compromised by a politically driven 'accelerated' timetable - is one that reflects an Authority determined to "get it done" at the expense of 'getting it right.' The original RIBA Competition Design Brief - in neglecting to sufficiently emphasise key Environment Agency requirements regarding the location of flood defence walls in relation to permanent structures - represented a significant mistart from which the competition-winning concept scheme never recovered.

35. As we have shown, the Authority was not open to more than cosmetic changes to its chosen path for the re-configuration and layout of the existing public open space within its Scheme - and by that we mean not only the Diamond Jubilee Gardens, but also Twickenham's existing Embankment Promenade and other areas of Open Space already available to the public.
36. Mr Chadwick referred repeatedly to the Authority being driven by its "ambition" to deliver what he described as a "brilliant" Scheme. Over the course of the Inquiry, we have shown an Authority driven by not only the desire to close off this project - to "get it done" - but also by the Administration-driven imperative of the deadline of a May 2022 Local Election - the loud "tick tock" of a schedule to be adhered to that was audible even before the Authority appointed its architect.
37. The impact on what emerged from this accelerated design process - one that not even a global pandemic would be allowed to derail to any great degree from its predetermined timetable - should not be underestimated.
38. The Trust outlined to the Inquiry how, in its opinion, the two Public Consultations were flawed. The Trust has also outlined that the Authority has

paid scant regard to the many detailed and thoughtful Objections made to its Planning Application. Many of the Objections to the Planning Objection were echoed by a 3000+-signature petition launched by the Trust in opposition to the Wharf Lane Building.

39. Meanwhile, negotiation – in the true sense of the word – with the Trust (as a statutory party and longterm tenant) was consistently narrowed to legal elements rather than the crux of the matter - the proposed area of re-provision offered to the Trust, and by extension the public.
40. The Trust has clearly demonstrated the wider context in which the site sits, with reference to other areas in and near Twickenham's riverside and how the completion of the work begun nearly 20 years ago to redevelop the old pool site was already being considered by the Council (across different Administrations) precisely with the aim to create and safeguard the 'destination' that is Twickenham's riverside.
41. We have shown how Twickenham itself together with its approaches particularly along the historic and bustling Thames Path from Richmond already represents a multi-faceted 'destination' which is filled with activity and life in many locations along those approaches – with its heart in and around Church Street, the Embankment Promenade and Twickenham's assorted riverside gardens: Orleans House Gardens, York House Gardens, Champion's Wharf, the Water Lane Open Space (or 'grassy knoll' as it has been referred to during the Inquiry), Diamond Jubilee Gardens, and Jubilee Gardens.
42. We have emphasised how the fact that the existing derelict and disused areas have not yet been developed has inhibited the further opening up and improving of connections and access between the King Street/Church Street/Water Lane junction and the Embankment. On a specific note, we have expressed disappointment that the Council has still not begun its trial to remove car parking from the Embankment – some two years after it was authorised.

43. **CPO Guidance**

44. This is a CPO Inquiry. And we now turn our attention to matters most specifically CPO related.

45. Paragraph 106 of the CPO Guidance sets out four critical criteria to be met before an Order can be confirmed, that can be summarised as follows:

46. (1) whether the purpose for which the land being acquired fits with the adopted Local Plan for the area

47. (2) the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area

48. (3) whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means

49. (4) the potential financial viability of the scheme for which the land is being acquired

50. The Trust has set out to the Inquiry how at least three of these fall short, with significant practical questions also over the Authority's intentions on the fourth.

51. **(1) Compliance with the Local Plan**

52. The Authority's evidence tends to start from the adoption of the Twickenham Area Action Plan (TAAP) in 2013. The narrative the Authority has sought to promote is that the Scheme Land is an area subject to neglect and decline over the 40-year period since the pool was closed in 1981. And its Statement of Case and other evidence seek to demonstrate how what is now proposed finally fulfils the objectives of the TAAP.

53. However, that is a misleading narrative and the suggestion that successive Council Administrations have been unwilling to invest in the site and its riverside environs mis-states the reality and is plain wrong. Mr Cremin's Evidence W4.2.06 "History of the Pool Site (to include the Santander site from 2013)" - whilst detailing successive development proposals brought forward since the pool

closed in 1981 - most importantly demonstrates the improvements and enhancements that have already been made to and in the vicinity of the “pool site”, with the adoption of a phased approach.

54. From the early 2000s, a vision emerged that had the deliberate aim of addressing the challenge of how to bring improvements to this sensitive site in incremental steps, the large-scale schemes that had been brought forward in the 1990s having met with significant local opposition.
55. This phased, incremental approach resulted in creation of new - and the upgrading of existing - public realm on Twickenham’s Riverside in a very practical way that cannot be said to represent what the Authority would term “40 years of neglect” and “40 years of dither and delay.”
56. In 2005, the Jubilee Gardens were opened. Subsequently, in 2012 parts of Jubilee Gardens (the playground, the cafe, one of its two ‘raised’ soft-landscaped areas) were incorporated into the larger, newly created Diamond Jubilee Gardens. Alongside the creation of these two riverside Gardens, there were substantial public realm improvements across the entirety of Twickenham’s Embankment Promenade, to include that part of the Promenade within the Scheme Land that took place in late 2013/early 2014. Just prior to this, in summer 2013, an upgraded Champion’s Wharf had opened. As detailed by Mrs Holman in her Statement of Evidence to the Inquiry, this riverside public garden - marking the very point where the Thames Path meets Twickenham’s Embankment riverside - can be said to ‘bookend’ Twickenham’s riverside, with the existing Diamond Jubilee Gardens forming the companion ‘bookend’ at the far end of Twickenham’s Embankment riverside.
57. This phased approach was encapsulated in the 2013 TAAP, which set clear principles for taking those next steps and determined a site-specific plan of action for the future. Mr Brownrigg brought this forward to the Inquiry comprehensively in his Proof of Evidence. The decision-takers at that time had the definitive intention to preserve the much valued public open space on the

Riverside “in perpetuity”. They provided for the continued enhancement and extension of the “Riverside Park” (including the Gardens), which they believed would create the ‘destination’ and encourage the town centre ‘regeneration’, but without building on the existing open space, which was then in 2014 leased to the Trust until the year 2139.

58. The 2013 TAAP, however, must not be seen in isolation. Far from being the beginning of a new process, it was in fact one key further step in a series of decisions and actions which had already begun some ten years before.
59. The Trust acknowledges that the Authority’s Planning Committee granted planning consent to the Scheme in November 2022. This was on the basis that (para 8.45 of CD-3.37 “Planning Committee Report 24 November 2022”) “the Scheme is deemed to meet the exceptions permitted under para 99 of the National Planning Policy Framework (the NPPF) and policies, both through the re-provision, the quality of the proposed space, and benefits of the proposed provision outweighing the loss of the current arrangement.”
60. Para 8.30 of CD-3.37 refers in more detail to para 99 of the NPPF:
“Existing open space [...] should not be built on unless:
[...]
b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
(para. 99 of the NPPF)”
61. The Committee considered that, on this basis, there was compliance with the general principles of the current Local Plan – the TAAP – in precedence over the site-specific provisions. These latter had been set out in the TAAP’s Maps 7.12 and 7.14 (see CD-2.05 “Twickenham Area Action Plan 2013”). These maps detailed explicit locations where ‘built’ (as opposed to landscape) improvements

should be permitted to take place. Accordingly, those site-specific provisions called for the Gardens to be extended and enhanced, not built on.

62. The Trust argues that, despite the grant of planning consent in November 2022, the Scheme fails to meet those provisions and is therefore in direct conflict with the TAAP. While not challenging the fact of the Committee's decision, the Trust notes that – crucially – it took no account of the clear sequence of intention within the Council as reflected in the TAAP. Indeed, the Trust has put forward to the Inquiry that the Authority's purchase in 2015 of 1-3 King Street (to include the rear private car park) was in direct support of realising the ambitions of the TAAP for the eastern side - to include the former pool buildings - of the Scheme Land.
63. The questions whether “the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality” or whether the benefits of the alternative recreational provision “clearly outweigh the loss of the current or former use” remain in dispute. They form part of the Trust's objections to the CPO, and also relate to s19 of the Acquisition of Land Act 1981 and will be covered in that part of the Trust's Closing Statement relating specifically to s19.
64. The above failure was compounded by the erroneous entry of the Diamond Jubilee Gardens – without qualification – on the Brownfield Land Register in December 2017. Mr Brownrigg also brought forward in his Proof of Evidence to the Inquiry how this error was only acknowledged by the Authority in the Planning Officer's report published 5 working days before the November 2022 Planning Committee Meeting. At this point, the Trust had been intensely lobbying the Authority to have the Gardens removed from the Brownfield Land Register for almost two years.
65. **(2) Economic, social and environmental wellbeings**

66. In its evidence, the Trust - via Mr Cremin's Proof of Evidence and his Statement of Evidence to the Inquiry - has challenged the degree to which these wellbeings would be achieved.
67. Aside from the general mentions of the pub/restaurant and the limited proportion of office space, there is no mention or quantification of the economic wellbeings resulting specifically from the construction of the Wharf Lane Building. Yet this is the most contentious element of the Scheme. This is the part which is disputed by the Trust and where the greatest harm will arise from the CPO, if approved.
68. The case for the social wellbeings relies largely on the provision of housing, particularly affordable housing, and on the degree of improvement to the public realm.
69. The Trust has no issue with the claims relating to affordable housing, which we welcome and which would be provided on the eastern side of the site on Water Lane.
70. In contrast, we do challenge the value of the wider provision across the development site of "new high-quality housing in a sustainable town centre location and on a brownfield site". We note the emphasis the Council places on the National Planning Policy Framework requirement for "substantial weight to be given to the value of using suitable brownfield site for homes". However, as the Council finally admitted a matter of days before the November 2022 Planning Committee, part of the land on which this additional housing is planned is not 'brownfield' but existing public open space. Because of this, several wider considerations should then come into even greater prominence – including whether that "additional" housing is truly essential in this particular location and whether it is truly suited to its Riverside context. There has been no consideration of the practical implications of the Authority's last-minute reversal of its position on the 'brownfield' issue, despite the Trust's requests.

71. This provision of housing at the expense, the Trust would contend, of public open space across the development site, also needs to be viewed in the context of a 5-year housing supply surplus in the borough, as brought forward in Ms Johnson's evidence to the Inquiry and detailed in document INQ-13 (LBR-27) "Housing Delivery and Targets Note".
72. Para 11: "The Council has identified a potential 2,308 dwellings over the 5-year period, which exceeds the remaining 2,192 target in the London Plan 2021 [...]"
73. Para 12: "[...] The LAMR states that it is expected that delivery will be higher than identified in the later years of the 5-year period as sites not identified progress through the planning system."
74. The above figures call still further into question the wellbeing provided by the provision of the market-value housing on Twickenham's riverside open space by the Authority's Scheme.
75. However, the Council does not analyse or offer compelling evidence as to wellbeings relating to the impact of the Wharf Lane Building on the west side of the Scheme. Instead, it makes general and unsubstantiated comments about the existing Gardens – for example, on usage by the public and public order issues – which the Trust regards as negative and largely subjective.
76. In terms of public realm, the Trust acknowledges and welcomes the wellbeing represented by the removal of the car parking from the Embankment. However, this does require a CPO in order to be implemented.
77. The Authority's descriptions play down the benefits of the existing Gardens and, unsurprisingly, extol those of the new Scheme. However, most of the disadvantages of the Gardens exist because of the continued presence of the derelict buildings, the private car park, and the car parking on the Embankment.

78. Other Scheme wellbeings as presented are over-stated, including the size of the new play space and the proposed facilities on the riverfront for river-based activities and boat storage, which would be constrained by the narrowing of the Embankment Promenade and the confining presence of the flood defence wall. So much more could have been included with a different and more open site design in the north-west corner of the Scheme Land.
79. On environmental wellbeings, the Trust questions whether the Scheme meets the Council's policy objectives for 'A Greener Borough' and the enhancement of local biodiversity. We do not consider that the Scheme would offer true compensating advantages for the losses it would cause. The Statement of Case fails to acknowledge the open and green aspect of the existing Gardens in all directions and contrasts with the fact that one direct result of the Scheme will be the removal of 66 trees – many mature, some rare – from the development site, with just one tree retained in the Diamond Jubilee Gardens.
80. The environmental losses will have a directly adverse impact on the amenity of the Gardens and the Embankment. The mitigations proposed are inadequate and fail to compensate the wildlife and the public in a meaningful way.
81. While, of course, the Scheme's landscaping provides for replanting, it would take decades for this to mature and for the bio-diversity to be restored, if at all. The Trust also points out that elements have had to be incorporated artificially into the design in order to compensate for the shortfall and to redress the unacceptable green losses on land. The Trust is sceptical as to the success of the proposed 'floating eco system' since this stretch of the river is narrow, heavily used by commercial vessels, and a sensitive and complex area with extreme high and low tides and rapidly shifting water. As well as being not able to support the existing wildlife on land, the aquatic habitats will therefore be highly vulnerable.
- 82. (3) Consideration of alternatives**

83. The third CPO consideration in Para 106 of the 2019 CPO Guidance is “whether the purposes for which the proposed Order Land is to be acquired could reasonably be achieved by any other means.”
84. In its Evidence brought forward to the Inquiry, the Trust has shown that no alternatives to its Scheme have been examined in any meaningful way whatsoever by the Authority.
85. Instead, the politically charged imperative to “get it done” has been the overriding driving force that precluded any such time-consuming activity. Mr Chadwick was asked a direct question by the Inspector during cross examination by the Trust on Day 7 of the Inquiry on the negative impact on the design process and engagement with the Trust and other stakeholders of adhering to the programme schedule. This was in the context of the Trust having met the architects for the first time on 5th June 2020 and then having received a “final offer” from the Authority just 19 days later on 24th June 2020. Mr Chadwick was asked by the Inspector to confirm the Inspector’s understanding that the Scheme was a “high corporate priority for the Council” and that with a team assembled and an architect appointed there was therefore “a degree of urgency to progress [...]” Mr Chadwick replied that that was “absolutely the case.”
86. *(i) A flawed RIBA Competition Design Brief*
87. With the loud ticking of its “high-corporate-priority” clock heard as an ever present background noise, the Authority has put forward the 2019 RIBA Design Competition itself as representing its ‘consideration of alternatives’. Mr Bannister, in his Proof of Evidence (LBR-2A) addresses this in para 7.9 (in the context of the impact of the Environment Agency’s requirements on the competition-winning concept design):
88. “[...] I am the other members of the Design Team went back on looked at the other competition schemes and it was clear that none of those would have met the requirements of the Environment Agency.”

89. In para 7.10, Mr Bannister details how the Design Team “re-examined the fundamental constraints of the Scheme Land and the strategic aims of the RIBA Full Design Brief and ultimately concluded that the original design strategy was still the most appropriate [...]”
90. Mr Bannister is, of course, just speaking from the perspective of Hopkins Architects. And it therefore leaves two huge unknowns surrounding the 2019 RIBA Design Competition as marking a ‘consideration of alternatives’ as the Authority would have it.
91. Firstly, it is unknown what initial “design strategies” the other four shortlisted architects might have adopted had the Environment Agency requirements been comprehensively briefed in as part of the 2019 RIBA competition process.
92. Secondly, it is unknown what changes (perhaps radical? perhaps completely back to the drawing board?) the other four short-listed architects would have made to their concept designs had they also been given the benefit of the ‘do-over’ that was afforded uniquely to Hopkins Architects.
93. (ii) Incorporating an ‘intact’ Diamond Jubilee Gardens into a wider development
94. On a further point regarding the RIBA Competition representing the Authority’s ‘consideration of alternatives’, we would refer to Mr Cremin’s Proof of Evidence W4.1.2 (para 43) in which reference is made to the Authority’s Finance, Policy and Resources Committee Meeting of 16 November 2020 (see CD-1.04 Meeting Reports Pack and CD-1.05 Meeting Minutes of the Authority’s Statement of Case).
95. The Authority’s Minutes, however, do not reflect the exchange that took place as detailed below in para 44 of Mr Cremin’s Proof of Evidence:
96. “At a November 2020 meeting of the Authority’s Finance, Policy and Resources Committee, at which the use of CPO powers was discussed, a committee member asked if consideration had been given, as part of the

2019 RIBA Design Competition, to concept schemes that would incorporate the Diamond Jubilee Gardens 'intact' (and would not therefore have required the use of CPO powers). Cllr Gareth Roberts, Chair of the Committee (Leader of the Council, Chair of the RIBA Design Panel, Chair of the Twickenham Riverside Sponsor Board) replied that had not happened:

"That's all so much coulda, woulda, shoulda."

A flippant retort, no doubt. But one that speaks to the lack of consideration of alternatives in order to ensure that the use of CPO powers is one of 'last resort'."

97. The 2019 RIBA competition cannot therefore be said to represent any 'consideration of alternatives' by the Authority that would not have required a CPO of the Trust's demise with Diamond Jubilee Gardens.

98. *(iii) The 2015-2018 Application*

99. However, as has been discussed in some detail during the Inquiry, the Trust would state most strongly that there does exist an 'alternative' Scheme that does not require a CPO of the Trust's demise within the Diamond Jubilee Gardens.

100. This is previous Administration's Scheme, as supported at the time by not only the Trust but also several other stakeholder groups, and is referred to by Mr Chadwick in his Proof of Evidence LBRIA as the "2015-2018 Application" (paras 5.5-5.8).

101. These four paragraphs represent less than one page of a 90-page document and are testament to the degree that this Scheme has been actively considered by the Authority as an alternative to the its CPO Scheme.

102. The "2015-2018 Application" received planning consent in March 2018, subject to Environment Agency compliance. The Trust's Rebuttal document S-2 REB.4

“TRT Rebuttal of Mr Chadwick’s Proof of Evidence” (pages 1- 13) offers more detail on the 2017 Scheme. Mr Cremin, in his Statement of Evidence on Day 7 of the Inquiry (INQ-23-4 “Ted Cremin - Justification”), made further reference to the November 2017 Scheme, ending his presentation to the Inquiry with a direct comparison between the number of units proposed under the 2017 Scheme (39 flats comprising 105 units) and the Authority’s Scheme (45 flats comprising 106 units). Whilst the 2017 Scheme only had 15% affordable housing, this quantum could, the Trust would contest, be easily increased, especially against the background of the Authority’s Scheme showing a shortfall of £20m.

103. Mr Bannister outlined to the Inquiry how, in his opinion, the 2017 would fail in certain aspects to meet Environment Agency requirements. However, these requirements, which would of course need to be confirmed by the Environment Agency, do not sound especially onerous, especially given the extent to which the 2017 is currently providing largely equivalent residential and commercial development when compared to the Authority’s Scheme. It does not lie outside of the realms of possibility that a scaled-back 2017 Scheme would still be able to deliver comparable benefits to those of Authority’s Scheme, and simultaneously result in increased riverside open space, having developed the Water Lane part of the development site i.e. the brownfield land, more densely.
104. Page 4 of the Trust’s document S-2 REB.4 showed that the 2017 Scheme likewise provided increased width pedestrian access from King Street leading down to the riverside. In Mrs Holman’s evidence on Design and Open Space on Day 4 of the Inquiry, the Trust indicated its scepticism around the degree to which the much promoted “widening of Water Lane” of the Authority’s Scheme would in reality deliver improved views of the river and the Eel Pie Island Bridge. The river is for the most part out of sight in any event due to the ‘maintained level’ (of which Mr Bannister admitted he was unaware) of the river between Richmond and Teddington. And any ‘view’ of the Eel Pie Island Bridge is currently possible to pretty much the same degree that the Authority is promoting via its Scheme i.e. barely at all. This is due to two considerations. Firstly, the bridge is a green structure against a green backdrop. It is not the silvery grey colour as shown in

the Authority's visual LBR - 2B(08) Appendix - View A - Looking down Water Lane from London Road (Design). The bridge is and would continue to be - due to the location of the Water Lane Building's 'podium' and the planting proposed along Water Lane - only visible from King Street from a very specific and narrow angle, as indeed it currently is (if one looks very carefully indeed), as Mrs Holman brought forward in her evidence to the Inquiry.

105. With the removal of Embankment parking and a higher percentage of affordable housing, the 2017 Scheme would, the Trust has sought to demonstrate in its document S-2 REB.4, answer many residents' aspirations for addressing the dereliction on the Authority-owned land and creating pedestrian-prioritised public realm on Twickenham's riverside in that area closest to the river itself.

106. (iv) A Scheme without the Wharf Lane Building

107. No consideration has been given by the Authority to the option of its Scheme without the Wharf Lane Building. The Trust has brought forward at the Inquiry how it had on several occasions asked the Authority to consider the viability of its Scheme without the Wharf Lane Building. In doing so, the Trust was attempting to have the Authority demonstrate its assessment of an alternative Scheme around certain important considerations of (1) the additional costs of that building including the cost of meeting the EA requirements which arise as a direct result of its construction, (2) the public amenity value of that building compared to that of the Gardens for which the Council is seeking the CPO, and (3) the comparative financial viability of a scheme without it.

108. Over the course of the Inquiry, the Inspector requested that the Authority provide details of the viability of its Scheme without the Wharf Lane Building. This was provided to the Inquiry in its document LBR38/INQ 32 "AA Note of Viability". Para 1.6 states:

109. "The Council is unable to disaggregate the costs of the Wharf Lane Building from the total costs. The Scheme was designed as a solution to the whole of the Scheme Land. Removing the Wharf Lane Building would have an impact on

several aspects of the design for example the open space and the flood defence, as well as removing key benefits. To truly understand the cost of the Scheme without the Wharf Lane Building a new design would have to be developed, to ensure that a new Scheme was deliverable, which is an unrealistic suggestion.”

110. In the words of the Leader of the Council at the November 2020 Finance, Policy and Resources Committee when asked why the RIBA Design Competition had not also asked for proposals that sought to integrate/enhance, rather than entirely reconfigure, the existing Gardens to be brought forward, it would yet again appear to be a case of “coulda, woulda, shoulda”, and that any consideration of an alternative Scheme without a Wharf Lane Building was no longer possible, with the Authority only able to offer (in para 1.7) that it was “highly unlikely” that such a Scheme would meet planning policy requirements. It is to be noted that the Authority offers no evidence in support of its “highly unlikely” conclusion.

111. All of the above demonstrate that in practice the Authority has not ‘considered, tested and assessed’ alternatives to its Scheme. Indeed, its Statement of Case and the Proofs of Evidence from both Mr Chadwick and Mr Bannister only make the merest mention of the consideration of alternatives and offer no detail whatsoever.

112. (4) Financial viability

113. The fourth CPO consideration relates to “potential financial viability.”

114. The Authority has provided details of a £20m net cost to the Council. This net cost is subject to loan repayment costs over 30 years of some £27m, making for an estimated net cost of £47m in total.

115. Affordable housing grants both from within the Council and those available via its registered housing provider are in addition to this £20m net cost. The latter funding is subject to time constraints.

116. There are also funds that have been obtained from the Brownfield Land Register Fund. These will need to be confirmed in the light of the reclassification of the Brownfield Land status of the development site.

117. **Consultation**

118. The Trust has given evidence that – in its view – the two public consultations have been seriously flawed, to the extent that respondents were not offered the opportunity to comment explicitly on the question of building on the ‘lost’ public open space of the Diamond Jubilee Gardens, since that question was combined with three other significant and distinct public open space questions – with a single answer (Strongly agree / Agree / Disagree / Strongly disagree / Don't know).

119. The four options relating to the objective of the Scheme “to provide high quality open space for Twickenham” were:

1. “the re-provision of the Diamond Jubilee Gardens
2. a car-free riverside (Embankment) where pedestrians are given priority
3. a widened Water Lane
4. enhanced space for special events”.

120. Without disaggregation of these individual options, the responses were both invalid and misleading, and have been repeatedly and selectively reported by the Authority as proof of support for the Scheme’s provision of “high quality open space”.

121. Further details surrounding this and the comments on the Scheme received via the Planning Application process have been brought forward in Mr Cremin’s Proof of Evidence and in his Statement of Evidence given to the Inquiry.

122. Similarly, in terms of the quantum and quality of the open space being provided by the Scheme, the numbers simply don’t add up to those being promoted by the Authority.

123. The Trust has set out in detail via Mrs Holman's Proof of Evidence S-2 WI.1.01 "TRT Open Space on the Scheme" why it considers the replacement open space to be less advantageous to the public. The Trust would also direct the Inspector to its Objections/Observations made as part of the Planning Application process. These are detailed in Inquiry documents S-2 WI.2.01 through S-2 WI.2.13.

124. The adverse impacts in the Scheme include:

1. the loss of coherent contiguous open space
2. placing open and events space on the Embankment – in conflict with the retained highway, cyclists, vehicle turning circles, pub users and flooding
3. the general inadequacy of the replacement events space, compared to the existing spaces used for events
4. the public's inability to use the new open space for the same recreational and leisure purposes as the existing multi-functional space of the Gardens and the loss of safety and security enjoyed by the current open space
5. the loss of many hundreds of hours of sunlight, year-round, and the sense of confinement caused by the overbearing Wharf Lane Building – compared to the open, green and shadow-free space of the existing Gardens.
6. the insufficient replacement playground
7. placing a pub at the centre of public gardens – immediately adjacent to a Cumulative Impact Zone that resists the grant of any new licenses
8. the wholesale destruction of all but one of the trees and removing green aspect, habitat, biodiversity and screening from neighbouring buildings

125. Negotiation

126. Over the course of the Inquiry, the Trust has brought forward detailed evidence regarding its negotiations with the Council, especially a key meeting held in late January 2020 and the 19-day gap in June 2020 between "initial design proposals" and the Authority's "final offer." On both of these occasions, the Trust voiced its

concerns and reservations about key aspects of the Authority's Scheme, to include most specifically the negative impact of the Wharf Lane Building.

127. Whilst the Authority has attempted to paint the picture of extensive negotiations with the Trust, these negotiations in reality focussed almost exclusively on the written part of the Heads of Terms. The Trust's concerns regarding the overall design of the Scheme were restricted to comments on design elements lying within the Authority's proposed re-provision of the Trust's demise within the Diamond Jubilee Gardens rather than the extent of the provision of quality open space across the Scheme as a whole and the impact of the built element of the Scheme on that open space.

128. The Authority's ill-informed belief in the strength of its CPO case, resulting in its October 2020 initial formal indication that it intended to use CPO powers to implement its Scheme - just some 6 months after it appointed its architect and only 3 months after it first contacted the Environment Agency - was to negatively impact any genuine negotiations on the Authority's part. It was, to repeat, right from the very beginning the Trust would contend, a case of "getting it done" at the expense of 'getting it right.'

129. **Concluding remarks**

130. To close, the Trust feels that the Authority's approach has, unfortunately, been short-sighted and has missed a huge opportunity. The TAAP, ie the current Local Plan, offered a vision of the Diamond Jubilee Gardens as an anchor within any proposals for Twickenham's riverside that could serve to secure the success of the project, as part of the solution and not a 'problem' to be eliminated. The economic, social, and environmental losses that would result, and the amenity losses to the current users and the wider public, outweigh the purported regeneration benefits of the Authority's Scheme, which are contested by the Trust.

131. The Authority has essentially treated this important challenge as a binary issue. As such, it has paid scant regard to the area-specific proposals in the TAAP and

the sequence of intention, the phased approach, established long ago by the Council specifically to extend and enhance the provision of what we as trustees term affordable open space, available to all both now and into the future on Twickenham's riverside, and to exclude building on the Open Space of the Diamond Jubilee Gardens "in perpetuity". These aims could have been carried into the whole-site solution that the Authority wishes to see.

132. The Trust has pointed out the possibility of practical alternatives which would build on the positive elements of the Scheme – which the Trust has identified over the course of the Inquiry as the provision of affordable housing, the reduction of parking on the Embankment and the creation of an improved physical link between King St and the riverside that can be brought about by the development of the Council-owned properties and land on Water Lane and the adjacent derelict pool buildings. All of these elements we are on record as strongly supporting.
133. All that is required to create a scheme that the vast majority of residents would welcome is to remove the primary negative element of the Wharf Lane Building, which lies at the very heart of this CPO process. Its very presence creates a negative impact, both directly and indirectly, on many aspects of the overall Scheme, aspects that we have referenced in detail during the three weeks of this Inquiry and in our written evidence. We accordingly contend that the CPO should be rejected.